Fischer et al. v. *Board of Supervisors of Washtenaw County,* (1909), —, Mich. —, 120 N. W. 13, 16 Detroit Leg. News 1.

In view of the present wide spread liquor agitation and the large number of local option petitions that are being circulated throughout the country this decision is of specical interest. The holding may have been influenced by the fact that the Michigan local option statute, in contradistinction to those of most of the other states, provides only that the petition need be sufficient upon its face, and by the further fact that in Michigan the finding of the board of supervisors as to the sufficiency of the petition is final. *Attorney General* v. *Van Buren Circuit Judge,* 143 Mich. 366. This latter proposition is rejected in other jurisdictions. *Ferguson* v. *Monroe County,* 71 Miss. 524, 14 So. 81; *Miller* v. *Jones,* 80 Ala. 89. The main question in the case, however, is as to the right of the supervisors to allow names to be removed from a petition after it is filed, but before it is acted upon; and here we find a direct conflict of authority. In an Illinois case involving a petition for a new township it is said, "Each petitioner acts upon his individual responsibility, and if he should change his mind * * * or if he should be induced to sign it under a misapprehension or through undue influence, he ought to have the right to correct his mistake, if he does so before the rights of others have attached by the final action of the board." *Little* v. *Supervisors,* 198 Ill. 205. A majority of the courts appear to follow this doctrine. *La Londe* v. *Board of Supervisors,* 80 Wis. 380. However, the cases that uphold this view of the law are most of them in some way distinguishable from the principal case by virtue of some difference in the wording or object of the statute construed. On the other hand there is a line of decisions holding with the principal case that the board of supervisors acquires jurisdiction immediately upon the filing of the petition and that thereafter no names may be withdrawn except for fraud or other good cause. *Sim* v. *Rosholt,* 16 N. D. 77, 112 N. W. 50, 11 L. R. A. (N. S.) 372, (where will be found an exhaustive note); *Bordwell* v. *Dills,* 70 Ark. 175. In the latter case the court says, "In the absence of something in the statute permitting it, neither the individual signer, nor indeed all the signers, could thereafter withdraw their names from the petitions without leave of the court. And the court should not grant without good cause shown therefore. He who voluntarily sets on foot a proceeding for the enforcement of a statutory police regulation in any community should not be permitted to capriciously undo his work. He should not be permitted to play fast and loose with the interests of society."

INTOXICATING LIQUORS—SALE OF MALT TONIC.—Defendant was prosecuted for the violation of a statute which prohibited the sale of "malt, spirituous, and vinous liquors, or any intoxicating drinks," without a license. He had sold a certain malt tonic containing a small percentage of alcohol. Evidence was introduced tending to prove that this liquor was not intoxicating. *Held,* that the trial court erred in submitting to the jury the question of the intoxicating properties of the liquor, since the statute prohibited the sale of all malt liquors, whether intoxicating or not. *Luther* v. *State,* (1909), — Neb. —, 120 N. W. 125.

Although the decision of every such case as this, involving as it does the construction of a statute, must depend largely upon its own circumstances and the wording of the particular statute in question, it may be noted that the tendency of the decisions seems to be toward applying the prohibition to all beverages containing alcohol, no matter in what minute quantities. Apparently, the sale of substitutes for the liquors which are recognized as intoxicating is not favored by the courts. In *State* v. *Yager*, 72 Ia. 421, 34 N. W. 188, the court said: "A large part of the evil attendant upon the use (of liquors) may be done, though the particular use may not result in intoxication. The habit and appetite may be formed. Evils are sometimes dangerous in proportion to their insidiousness." It has been held that statutes prohibiting the sale of "malt liquors" apply to all malt liquors, whether intoxicating or not, in the following cases: *United States* v. *Cohn*, (I. T.) 52 S. W. 38; *State* v. *O'Connell*, 99 Me. 61, 58 Atl. 59; *People* v. *Cox*, 94 N. Y. Supp. 526, 106 App. Div. 299. But in *ex parte Gray*, (Tex.) 83 S. W. 828, it was held that the sale of a non-intoxicating malt tonic was not prohibited by such a statute. The decision in the principal case was rendered upon a rehearing, and reverses the former opinion of the court in the same case, reported in 114 N. W. 411. LETTON, J., with whom BARNES, J., concurred, dissented, on the ground that the liquor law of the state had, for nearly forty years, been interpreted by administrative, executive, and judicial officers as prohibiting the sale of merely those liquors which are intoxicating, and that to hold that it prohibited the sale of a non-intoxicating liquor amounted to judicial legislation.

LANDLORD AND TENANT—CHANGE IN LAW PREVENTING USE OF PART OF PREMISES—ABATEMENT OF RENT.—A landlord leased to a tenant a hotel described as consisting of the office, bar, etc. After the commencement of the lease, and before its termination, the legislature passed an act prohibiting the sale of alcoholic, spirituous, malt or intoxicating liquors. *Held*, in the absence of any provision in the contract of lease for that purpose, the tenant was not entitled to a reduction or proportional abatement of the agreed rental. *Lawrence* v. *White*, (1909) — Ga. —, 63 S. E. 631.

This is the first time the Supreme Court of Georgia has passed upon this exact point. The principal case, although in accord with the cases that have been decided upon this point in other states, is based upon analogies, one of which suggests the possibility of a contrary decision being rendered upon a similar set of facts. The Civ. Code of Georgia, 1895, § 3135, declares, "the destruction of a tenement by fire, * * * * not caused by the landlord, or from the defect of his title, shall not abate the rent contracted to be paid." The court in the principal case, in substance says that legislative action preventing the lessee from using the premises in the manner for which they were leased works no greater hardship than the above statute. But some of the states, among them New York, Ohio, and Minnesota, have by statute shifted the burden from the tenant and excused him from the payment of rent when the leased building is destroyed by fire or the elements. 3 N. Y. Rev. Stat. (Birdseye Ed. 3, 1901), § 197; Ohio 4113; Minn. 1894, § 5871. The reason